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# MORAL AUTONOMY, CIVIL LIBERTIES, AND CONFUCIANISM

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One of the most challenging issues that must be faced today in any attempt to develop a contemporary Confucian ethical and political theory is the question of individual autonomy. Since the May Fourth Movement, Confucianism has been criticized as failing to recognize the dignity of the individual and the value of individual autonomy as understood in the Western liberal traditions of political thought. Some have gone further to contend that Confucianism not only fails to recognize, but even actively suppresses, individual autonomy. The most forceful critic in this regard was Chen Duxiu, who argued powerfully that Confucianism is unfit for modern life because its ethics seriously undermines individual autonomy and self-respect. This criticism is still influential today, but appears in a different form. Confucianism, it is now claimed, is unfit in the context of human rights and civil liberties because it does not respect the autonomy of the individual.<sup>1</sup>

Is it true that Confucianism does not recognize individual autonomy? In the past, scholars often defended Confucianism against these charges. Their argument holds that there is, within Confucianism, a concept of moral autonomy that can support civil liberties without having to incorporate the liberal notion of individual autonomy.<sup>2</sup> This argument of moral autonomy is important. If sound, it can revise, if not reject, the dark and pessimistic picture of Confucianism powerfully painted by May Fourth thinkers. In this essay I seek to examine critically the Confucian conception of moral autonomy and explore its implications regarding civil liberties.

The concept of moral autonomy is, unfortunately, vague and ambiguous, and the arguments that make use of this idea do not help remove its vagueness or ambiguity. The question of whether Confucian ethics has a conception of moral autonomy often invites two replies, neither of which is fruitful for my purposes here. The first uses Kant's view as a yardstick to measure any alleged conception of moral autonomy. It says that because Kant coined and popularized the term, we should take his concept as the definition of moral autonomy. And because Kant rejects anything other than one's practical reason as the source of morality, Confucian ethics, which sees morality as grounded in human nature and heaven, cannot possibly have such a concept of moral autonomy. The second reply goes to another extreme. It says that conceptions of moral autonomy range from a minimal one that requires only the agent's voluntary endorsement of morality to a demanding one that takes morality as a kind of free creation of the individual's will. From this reply it should not be difficult to pick one particular conception from the spectrum to characterize the Confucian view, and then conclude that Confucianism does have a conception of moral

autonomy. Alternatively, one might even *add* a Confucian conception to the list if none from the existing range of conceptions fits it.

Both replies are problematic because they direct our attention away from substantive issues to terminological ones. A more fruitful strategy, I believe, is to ask whether the elements commonly found in conceptions of moral autonomy can also be found in Confucian ethics, without necessarily concluding that those elements that are present in Confucian ethics would amount to a *genuine* conception of moral autonomy. To what extent can those elements found in Confucian ethics support civil liberties? This is a substantive question, not one of mere terminology. For the sake of convenience, however, I shall still use the phrase “a Confucian conception of moral autonomy,” instead of the clumsy “the elements in Confucian ethics that are present in other common conceptions of moral autonomy.” But the use of “a Confucian conception of moral autonomy” should not be taken to mean that I intend to settle the terminological dispute in one way or another. Rather I shall discuss some aspects of moral autonomy that are commonly found in different conceptions, and then examine whether they are present in Confucian ethics.

Individuals are autonomous if they are in some sense masters of their own lives. Individuals are *morally* autonomous if they are in some sense masters of their *moral* lives. But what does it mean for me to be a master of my own moral life? I suggest that it may mean one or more of the following elements:

1. the voluntary endorsement of morality;
2. a reflective engagement in moral life;
3. morality as self-legislation; and
4. morality as the radical free expression of the individual’s will.

In the following analysis, I try to show that the first two elements, voluntary endorsement and reflective engagement, can be found in Confucian ethics, while the last two, self-legislation and radical free expression of the individual’s will, are not only foreign to, but incompatible with it. The first two elements together form what I call, for brevity’s sake, the Confucian conception of moral autonomy. This is no doubt a minimal conception, but, as I shall argue, it does support civil liberties to a certain degree. However, it gives no support beyond a certain point. To supply a stronger case for civil liberties, we need to incorporate a modern conception of individual autonomy as personal autonomy. “Personal autonomy” has often been confused with “moral autonomy,” but in fact these two capture different concerns and carry different implications. It is the former notion that more strongly supports liberties. I argue, however, that the inclusion of personal autonomy would strengthen the contemporary appeal of Confucianism. Such an inclusion need not imply abandoning Confucian ethics for something else. Instead, it can be seen as an *internal revision* in response to new social circumstances.

A few caveats are in order before examining the various elements of moral autonomy. First, it is not my aim here to offer a comprehensive examination of civil liberties and Confucianism. Instead I look at this question only from the angle of the Confucian conception of moral autonomy, so as to determine the *usefulness* of this

idea in justifying civil liberties. Certainly there are other elements or reasons in Confucian ethics that also have bearing on civil liberties, but I will refer only to those that have direct connection with the argument of moral autonomy, especially those that set limits to this argument. In addition, I do not intend to cover all the liberties mentioned in the standard national and international charters of human rights. Rather I will focus mainly on the freedom of expression and, more generally, the freedom of action. I will confine my examination to these questions: to what extent should these freedoms be restricted by law for the sake of promoting morality or punishing immorality, and does Confucian moral autonomy provide resources to support these freedoms? Because of this limited scope of inquiry, the Confucian view on civil liberties that I reconstruct here tells only a partial story, although I believe this story does not contradict the larger picture.

Second, for reasons of space I confine my examination of Confucian ethics to the classical period. I aim to show that within classical Confucian ethics as a whole, there are elements of moral autonomy that have a certain bearing on civil liberties. Yet even within this period, individual thinkers such as Confucius, Mencius, and Xunzi have different views on issues related to this theme. I shall point out these differences when necessary. This is no place for a detailed discussion of each thinker's point of view. I simply intend to show that their differences do not undermine the validity of my general line of argument.

Third, my inquiry should be understood as a kind of philosophical reconstruction rather than a detailed textual analysis and interpretation. I wish to examine the general perspective of classical Confucian ethical thought from the particular philosophical angle of moral autonomy and to draw out the implications of its ideas for the particular contemporary philosophical and political concern of civil liberties. While I intend, insofar as possible, to interpret accurately, the success of my inquiry will be measured primarily in terms of its ability to illuminate our understanding of the philosophical tradition and the contemporary issue in question.

### *Elements of Moral Autonomy*

#### *Voluntary Endorsement*

The first element, the voluntary endorsement of morality, captures the most minimal meaning of the concept of moral autonomy, although as such it is not a sufficient account of the concept. This element is best understood in the negative sense: moral agents cannot lead a moral life if they are coerced into it. Such a life not only lacks autonomy, it is not a *moral* life at all. Why is this so? The answer has to do with the nature of moral life. A life is not genuinely moral if agents do not endorse the moral life they lead or are not motivated by morality. Those complying with moral commands always for fear of punishment, and hence acting *involuntarily*, are not motivated by morality and do not lead a moral life. Similarly, those so complying solely for the sake of their own benefit do not lead a moral life either. A moral life concerns not only acting rightly in outward behavior but also acting with a proper motivation and with a genuine appreciation of the intrinsic demand of morality. It has to be led

from the inside, so to speak. The endorsement of morality is a precondition of a moral life. And because endorsement must be voluntary, we have voluntary endorsement. A morally autonomous life must include, among other things, the agent's voluntary endorsement of the demand of morality. Most ethical theories converge at this point.<sup>3</sup>

Notice that I do not mean that a morality in question becomes a true or valid one *because of* one's endorsement. To say this would be to see morality as self-legislation, a view that claims more than voluntary endorsement, as will be analyzed shortly. Endorsement here is compatible with the realist meta-ethical view that a morality is true whether or not one endorses it. Endorsement is a precondition of moral life, not moral truths.

### *Reflective Engagement*

Voluntary endorsement is not necessarily reflective or deliberative. It is compatible with unreflective habituation. According to some accounts, moral autonomy requires more than voluntary endorsement. To be morally autonomous, I have to lead my moral life according to *my own* understanding of what morality requires of me. A moral understanding is my own if it is developed through my reflection, deliberation, and judgment. A person who is brainwashed to believe a certain morality or who unreflectively follows social conventions does not lead a morally autonomous life. On these accounts, moral autonomy requires reflective engagement, which consists of reflective endorsement, deliberation, and judgment. I have moral autonomy only if my moral acts can ultimately be traced back to, and are supported by, my reflective endorsement, deliberation, and judgment.

It is important to stress that, like voluntary endorsement, reflective engagement need not be the source of moral truths. Reflective engagement is fully compatible with a realist account of morality. Why, then, are the reflective engagements of moral agents important in their moral life if the standard of morality can be independent of their own personal view? The answer is twofold. First, it is my reflective engagement that makes my moral life, values, and acts genuinely my own. It is what makes me morally autonomous. Second, although it is true that a person can lead a moral life without reflection, such an unreflective moral life would probably not be *successful*. Human morality, as we understand it, is a complex matter. There is always a possibility of error or failure—human agents failing to understand morality properly, or make appropriate moral decisions, or live up to the demands of morality.<sup>4</sup> Many ethical theories claim that a successful moral life requires intelligent ethical understanding and virtuous dispositions, both of which have to be developed through learning, habituation, *and* reflection. Of course, if there is a moral expert or sage who can often tell us what we ought to do, this would ease the need for reflection. Moral sages are not often around with us, however, and their teachings cannot cover every possible moral situation in which we find ourselves. In addition, if their teachings are not transparently clear and have no clear immediate implications, they then require intelligent interpretation and understanding, which in turn require intelligent reflection.

We are now in a position to understand why reflective engagement can be seen as an element of moral *autonomy*. Only I can carry out my reflective engagement. This truism nonetheless has an interesting implication. The very activity of moral reflection that I engage in necessarily creates a certain *moral* space between myself and others. The moral judgment proceeding from my reflection and endorsed by me may come into conflict with the judgments of others in society. I may believe that a social convention is morally wrong despite its being generally accepted by society. I may stick to my own understanding of morality or even challenge that of others. From here we may begin to talk about an individual's moral integrity and conscience, and move on to moral stories about how a lone fighter mounts a moral challenge to political authority. Although the reflective engagement of agents does not function as the justificatory basis of the morality they accept, it nonetheless leaves a *mark* of the agents on the morality lived in their lives. The moral life that agents reflectively endorse and live is properly their own, with their stamp on it.

### *Self-legislation*

Self-legislation requires more than reflective engagement. The latter is compatible with morality grounded in things other than one's reflection, such as nature, human nature, and God. I can still be morally autonomous *provided* that I also reflectively endorse and engage in morality the validity of which is grounded elsewhere.<sup>5</sup> Here the function of reflection is to *discover*, to *know*, and to *endorse* the true morality. The account of morality as self-legislation, on the contrary, requires more independence. One well-known example of this account is Kant's conception of moral autonomy. Kant gives a highly specialized view on what counts as a proper reason for, or grounding of, morality. For Kant, moral law is independent not only of society's convention or tradition, but also of anything external to one's rationality, including, for instance, nature and human desires—these are sources of heteronomy, not autonomy. It is reason inherent in one's humanity alone that gives rise to the moral law. Reason here performs not the function of *discovery* or *endorsement* of moral principles derived from elsewhere, but the very function of *legislation*—it originates and validates the moral law. Individuals are subject to no authority other than their self-made law based on reason. So, even obeying the moral law justified on the basis of human desires and emotions is thought to be a case of the surrender of one's autonomy.

### *Radical Free Expression of the Individual's Will*

If Kant's conception of moral autonomy as self-legislation is *rationalist*, then this last element conveys an *expressivist* conception of self-legislation. Truly autonomous agents obey no law other than their own. Although Kant's view of self-legislation apparently sticks to this notion of self-made law, in reality the law is to be made by an abstract self devoid of any particularistic features of a concrete individual. It is not an expression of individuality as such, but of an abstract universal reason to which all human beings should submit. In the expressivist view, however, self-legislation is understood as a thoroughly subjective process unconstrained by any factors other

than one's own reflection based on one's desires, ambition, and personal circumstances. Morality and moral choices are made by one's self—the existentialist, not the rationalist, self—for the latter does not truly represent the individual. Morality and moral choices are therefore necessarily subjective.<sup>6</sup>

### *Moral Autonomy in Confucian Ethics*

Having briefly sketched the several elements commonly found in conceptions of moral autonomy, I shall now examine whether any of these elements are present in Confucian ethics. I shall argue that the first two elements, voluntary endorsement and reflective engagement, can be found in Confucian ethics, while the last two, self-legislation and the radical free expression of the individual's will, are incompatible with it.

#### *Voluntary Endorsement*

Voluntary endorsement is a precondition of moral life. This point is perhaps so obvious that it is often assumed, rather than explicitly argued for, in Confucian ethics. For example, the second element of moral autonomy, namely reflective engagement, would not make any sense if this first element were not supposed to be true. Also, classical Confucians are known to appeal to the idea of voluntary endorsement in other matters of first importance: they stress repeatedly that it is desirable for people voluntarily to endorse, and submit themselves to, political authority, and for barbarians voluntarily to submit to the people of higher cultures in the central region of China. Thus, in the absence of an argument that says otherwise, it would be implausible to think that Confucians would not accept the idea of voluntary endorsement of morality.

But there is a more direct way to show that Confucian ethics accepts voluntary endorsement. As pointed out in the previous section, for agents to lead moral lives they have to be motivated by morality itself, and not be forced to do so. Confucians repeatedly ask us to endorse and embrace morality for its own sake. Throughout the *Analects*, Confucius is reported to be saying that we must desire and be fond of *ren* (*hao ren*), be at peace with *ren* (*an ren*), and see *ren* as the most important thing in our lives.<sup>7</sup> In addition, Mencius' famous example of the child on the verge of falling into a well also demonstrates that he understands that acting virtuously is acting for the right reason from the moral standpoint—in this case it is the suffering of the child, not the actor's own reputation or benefits, that constitutes the right reason and proper motivation.<sup>8</sup> As for Xunzi, while human beings do not necessarily desire the moral good by their inborn nature,<sup>9</sup> Xunzi recognized that moral agents such as sages and gentlemen (*junzi*) are people who desire morality and virtues for their own sake and take delight in acting morally.<sup>10</sup>

Furthermore, the importance of acting for morality's sake and being properly motivated by it can be vividly seen in Confucius' negative remark about what he calls "honest village people" (*xiang yuan*),<sup>11</sup> who are the "ruin of virtue." As explained and elaborated by Mencius, "honest people of the village" lack character

and real virtues. They follow no moral principle of their own, but only the popular trend. They appear to be virtuous, but they are not really acting for morality's sake. They are just "cringingly" trying "to please the world."<sup>12</sup> Confucius says that the honest village man is "the enemy of virtue." Confucius' condemnation of this character type shows that he understands that a moral life has to be led from the inside, by an agent who is voluntarily motivated by morality.<sup>13</sup> As will be seen later, this and other character types mentioned in the *Mencius* also have interesting implications regarding reflective endorsement and liberties.

At this point, we are in a position to counteract a possible objection to the claim that Confucianism must accept the voluntary endorsement of morality. For Confucians, the objection goes, a person can lead a moral life simply by doing the right act, which does not necessarily require a proper motivation or a correct appreciation of the right reason for action. This is because the moral character of the act is in the nature of the act, not the intentional state of the agent. This objection confuses a moral *act* with a moral *life*. We may grant that an *act* can be morally right whether or not it is performed with a proper moral motivation. My saving of the falling child is a right act, even if I do this for the sake of my reputation. However, this act does not make my *life* moral or make me virtuous. On the contrary, doing this act without the proper motivation shows precisely that I lack virtues. Now the examples discussed above show that Confucians stress the moral motivation of people, because for them what is morally significant is the cultivation of moral lives and virtues as a whole, and not merely the performance of right acts. As far as moral lives are concerned, a proper appreciation and endorsement of the demand of morality is absolutely essential. (Some might contend that classical Confucians expect sages and gentlemen only, and not the common people, to lead truly moral lives. Thus, the requirement of voluntary submission is limited to a small group of people. I shall discuss this objection toward the end of this section.)

### *Reflective Engagement*

It is sometimes argued that Confucius lacks a distinction between morality and social convention, and, therefore, that the possibility of individuals being morally autonomous relative to social conventions cannot arise.<sup>14</sup> And because convention is morality, the argument continues, there is little need for moral reflection. Convention is by nature public, and all one needs to do is to follow public norms. This is far from the truth. Although Confucius inherits much of the content of his ethics from the social conventions (rites) of the Zhou dynasty, he does not regard his ethics as being based on mere convention. Confucius treats rites not as external rules constraining people's behavior and distributing powers and duties, but as a necessary part of a conception of an ideal moral person—the man of *ren*. Rites are based on and required by a deeper ethical foundation, but *ren* is a human quality, an expression of humanity. It can be manifested in different virtues, from personal reflection and the examination of one's life to respect, concern, and care for others.

These attitudes and qualities of self-examination, sympathetic understanding, and caring for others are essential to the spirit and vitality of rites. At the same time,



this creates the possibility of a difference between rites that are lived in a spirit of *ren* and those that are devoid of it. Conflicts can arise between *ren* and those rites that fail to express or promote it. Confucius says, "What can a man do with the rites who is not benevolent? What can a man do with music who is not benevolent?"<sup>15</sup> Confucius does not dogmatically believe that rites should never change. Although the essence of filial piety or respect for a superior is unchanging, ways of expressing this norm may change. For instance, the essence of filial piety consists of caring for and supporting one's parents and respecting them, but the concrete ways of expressing caring and respect may change. Confucius protests, for example, against the extravagant burial practices of his age. Second, some rites may seem inappropriate when judged with a deeper ethical perspective or lose their attractiveness in a new circumstance:

The Master said, "A ceremonial cap of linen is what is prescribed by the rites. Today black silk is used instead. This is more frugal and I follow the majority. To prostrate oneself before ascending the steps is what is prescribed by the rites. Today one does so after having ascended them. This is casual and, though going against the majority, I follow the practice of doing so before ascending."<sup>16</sup>

The Master said, "Follow the calendar of the Hsia, ride in the carriage of the Yin, and wear the ceremonial cap of the Chou, but, as for music, adopt the *shao* and the *wu*."<sup>17</sup>

These passages suggest two things about the Confucian attitudes toward rites. First, one should not blindly follow the rites as endorsed by society or the majority. Rather, one should adopt a reflective moral attitude to examine the ethical reason behind a rite and to determine whether that rite is appropriate. Second, a rite can and should change if the circumstance changes. Confucius himself stresses that we should learn and select appropriate rites developed in different periods and places. This is, therefore, one reason for the importance of reflective endorsement.

Of course, for classical Confucians some rites are fundamental and should never change. But even for these rites there is always room, and the need, for reflection—and this is the second reason for the importance of reflection. Human life-situations are varied and complex. Rites as norms of conduct are often too general to give precise guidance in the making of concrete moral decisions. There may be novel situations, borderline cases, and hard cases (where some rites are in conflict with others) that call for reflective judgment and moral discretion. Because of this, Confucians often emphasize weighing and moral discretion (*quan*),<sup>18</sup> flexibility (*wu gu*),<sup>19</sup> and timeliness (*shih*)<sup>20</sup> in making moral decisions in particular circumstances.<sup>21</sup> These are important qualities that a gentleman ought to develop, and Mencius praised Confucius for being timely in action instead of stubborn and inflexible.<sup>22</sup> Similarly, Xunzi thinks that to strike at the mean in each particular context is not easy, and therefore we have to weigh and deliberate the relative merits of different courses of action carefully before making a decision, and try not to be one-sided or prejudiced.<sup>23</sup>

If one has reached the highest point of moral development, one does not need much reflection to know what to do and how to behave correctly. At this point,

one's moral action simply flows naturally from one's settled virtuous disposition, without difficulty or hesitation. But in order to reach that stage, one needs much moral training, which includes learning, reflection, and habituation,<sup>24</sup> and this is the third reason for the importance of reflection. While the three Confucian masters have different views on moral psychology and development, they all stress the importance of moral understanding and reflection along with the transforming power of rituals. Confucius and Xunzi hold that one develops one's moral understanding through reflective learning and studying.<sup>25</sup> The conception of moral learning expounded in the *Analects* is one that emphasizes thinking, reflection, imagination, and dynamic deliberation.<sup>26</sup> Xunzi, like Confucius, emphasizes a kind of learning that requires much careful studying, pondering, searching analysis, and understanding.<sup>27</sup> No doubt Xunzi also thinks that associating with a teacher is the most effective way of learning. But it is most effective precisely because teachers can best enhance and illuminate a student's *understanding*—often books do not offer explanations or are too imprecise for their import to be easily grasped:

In learning, nothing is more profitable than to associate with those who are learned. Ritual and music present us with models but no explanations; the Odes and Documents deal with ancient matters and are not always pertinent; the Spring and Autumn Annals is terse and cannot be quickly understood. But if you make use of the erudition of others and the explanations of gentlemen, then you will become honored and may make your way anywhere in the world.<sup>28</sup>

Among the three early Confucian masters, Mencius emphasizes least the role of learning in one's moral development. This lack of emphasis has to do with his view that people have a basic ethical instinct to act morally and that moral development is more like the natural growth of a plant than the process of an artifact being crafted. However, even the growth of a natural entity needs nourishing conditions and treatment. In the case of moral life, Mencius believes that one needs to exercise certain cognitive abilities, or the abilities of the mind, in order to develop one's moral understanding and motivation and make proper judgment.<sup>29</sup> These abilities of the mind include the ability to attend (*si*)<sup>30</sup> to objects and one's feelings toward them, the ability to extend (*tui*)<sup>31</sup> what is attended to to other similar situations, and the ability to weigh circumstances (*quan*).<sup>32</sup>

### *The Importance of the Will*

Reflective endorsement and engagement create a moral space between the agent who does the reflecting and others. It is possible that what the agent regards as morally right may not be shared by others. It is also possible that the agent may find other people's ways of doing things wrong. In this case, Confucians tell agents to stand firm on the moral position that they reflectively endorse—to act on their independent will. Confucius says, "The Three Armies can be deprived of their commanding officer, but even a common man cannot be deprived of his will [*zhi*]."<sup>33</sup> Mencius says that the great man sticks to his will and principle even if his cause is not shared by others or if he is in an unfavorable situation. "He cannot be led into

excesses when wealthy and honored or deflected from his purpose when poor and obscure, nor can he be made to bow before superior force. This is what I would call a great man.”<sup>34</sup> And Xunzi writes, “The exigencies of time and place and considerations of personal profit cannot influence [the gentleman], cliques and coteries cannot sway him, and the whole world cannot deter him. . . . Truly this can be called “being resolute from inner power.”<sup>35</sup>

The idea of a great man having an independent will and sticking to it against all odds presupposes the belief that one should act on one’s own best understanding of morality. A great man is one who forms an independent moral will and takes control of his own moral life. In moral life he follows nothing but the moral principles that he reflectively endorses and the moral will that he develops. In this sense he is morally autonomous.

The will of a morally autonomous person can be expressed or asserted externally and internally.<sup>36</sup> Externally, it creates for individuals a moral space of independence in society—individuals are morally independent of the political establishment and social opinions, and their moral will can be asserted antagonistically against them. There is no shortage of remarks and stories in Confucianism about moral heroes who defy what they regard as immoral political authority.<sup>37</sup> Even parental authority, if exercised in an immoral way, should be respectfully disobeyed.<sup>38</sup> Internally, the will can be asserted toward oneself positively—in uplifting one’s motivation of self-cultivation; or negatively—in bringing forth a sense of shame (*chi*) in individuals who fail to live up to their will. For Confucians, shame is an important moral phenomenon.<sup>39</sup> If individuals feel ashamed of their behavior, this suggests that at least they still have a motivation to live up to what they reflectively endorse. The problem is mere weakness of will, which is remediable. Lack of shame, on the other hand, is a sign of complete moral failure. Individuals without a sense of shame have no motivation at all to act morally. Even if individuals are made to behave according to some moral law, they do not act from the moral standpoint. They do not see the intrinsic importance of leading a moral life.

### *Willing, not Free Choosing*

It is important to note that for Confucians, the moral will is not the free expression of an individual’s arbitrary will. It is rather the expression of a determination to will what is demanded by the kind of morality that the individual reflectively endorses. Thus, Mencius says that the business of a gentleman is to will *ren* and righteousness.<sup>40</sup> Individuals do not choose the content of their moral will. It is an independent substance that judges all individuals. Confucian ethics cannot accept the third and fourth elements of moral autonomy. It cannot accept the Kantian conception of morality as self-legislation, since, in the Confucian view, morality is not legislated by Reason but grounded in human nature or Heaven, which are two parts of the same whole. According to some interpretations, Kant’s notion of Reason as universalizability is a proceduralist account of moral realism as opposed to various substantive accounts of moral realism, one instance of which, I believe, is the Confucian view of morality.<sup>41</sup> With this distinction, we may say that any substantive realist

accounts of morality do not satisfy the requirement of moral autonomy as understood by the Kantian perspective. (Some may think that Xunzi gives a more rationalist-constructivist account of morality, as opposed to the Mencian naturalistic one, but it is still far from the Kantian notion of self-legislation by impartial proceduralist reason.)

Similarly, Confucian ethics cannot accept the expressivist view that morality is the radical free expression of the individual's will. This view emphasizes free choice and individuality as the true sources of morality, and these are lacking in Confucian ethics. More important, Confucian ethics does not accept that morality is reducible to what individuals would choose given their desires and preferences. Does this imply that the Confucian ethical view of moral life is defective because it does not take free choice as the ground of morality and as a central activity in it? This raises difficult questions about the role of choice in moral life that go far beyond the scope of this essay. Nevertheless, I would like to venture a brief, tentative defense of the Confucian view.

Sometimes we use our experience of choosing in ordinary life to understand by analogy the phenomenon of fundamental moral choice. When we go into a supermarket, we make many choices. Facing a variety of orange brands, we rank our options in terms of cost, quality, and other factors. We then select the item that best satisfies our preferences. But very little of this happens in fundamental "moral choices." Rather we have an experience of willing, which involves thinking, understanding, and willfully embracing, not picking or selecting. Meir Dan-Cohen puts this point well:

Our moral experience does not consist in scanning a more or less arbitrarily delimited range of acceptable moral options and then picking out the most attractive member in the set. When we are in the grip of moral truth we are moved by its intrinsic value rather than by its comparative advantage over other acceptable alternatives. Moral choice consists in ... my embracing a particular maxim and a course of action that falls under it. So long as I willfully embrace the correct maxim I behave both freely and rationally.<sup>42</sup>

If this account more or less captures our deep moral experience, then what is essential in making fundamental moral choices is more a matter of "willing" than "choosing." The Confucian conception of moral autonomy is closer to a *will*-conception of autonomy than a *choice*-conception, which also better captures what happens in our fundamental moral choice.

Of course, this is not to suggest that Confucian ethics recognizes no room for moral choice-making. Confucius himself suggests that in some circumstances it is up to a gentleman to choose whether to stay in government or step down when the Way does not prevail in politics; in either case, the gentleman's choice should be respected.<sup>43</sup> In this instance, his choice does play an important role in explaining and justifying his act. Since staying in and leaving politics are both permissible, the fact that the gentleman acts in one way rather than another has to be explained and justified by his own choice among other things. His choice is one factor that confers authority on his act. But when we reflect on our fundamental moral experience—

when we ask ourselves whether we should act in accordance with *ren* or act as a filial son—it is not that we are presented with different permissible options having various degrees of attractiveness from which to choose. It is rather that *ren* and filial piety appear to us as a necessary, inescapable moral truth for us to grasp and willfully embrace. Some people might insist that this kind of moral experience can still be described as a matter of “choosing.” But the crucial point is not one of terminology but of moral significance. Unlike the genuine matter of choice about remaining in politics, this so-called “choosing” neither confers moral authority on one’s act nor explains one’s real motivation. Instead, from the moral agent’s own point of view, it is a matter of moral necessity to act in accordance with *ren*.

Donald Munro has argued that while Confucians have not questioned the possibility of the individual’s independence of will, “choice-making, or willing, has not been at the center of ethical concern. . . . The central problem in self-cultivation [for Confucians] is not the proper exercise of free choice, as is hypothesized in so much of Western ethics.”<sup>44</sup> Munro does not differentiate between choosing and willing. That choice-making in its popular sense in the West is not central in Confucianism is indeed true.<sup>45</sup> But the same cannot be said for willing. As argued above, Confucianism does put a great deal of emphasis on the importance of willing. The will-conception of moral autonomy seems to capture better the phenomenon of moral choice than the choice-conception.

Before examining the implications of the Confucian conception of moral autonomy, it is necessary to consider one potential challenge to the argument thus far. My reconstruction of the Confucian conception, the challenge goes, may be correct insofar as it stands as the description of the moral elite—gentlemen and sages. These people are few, however, and the majority—the common people—simply fall far short of the ideal. So whatever implications Confucian moral autonomy may have regarding civil liberties, they apply only to the moral elite.

This challenge has certain force. Neither Confucius nor Xunzi are optimistic about the ability of the common people to understand the Way and the reasons behind it. But they do not think that the common people need this ability. Society and politics can flourish so long as the moral elite are in power to enforce the Way through rectification of names, education, and legislation.<sup>46</sup> Mencius recognizes a greater role of the common people in legitimizing and strengthening political rule than Confucius and Xunzi, and he also seems more optimistic about the people’s potential for self-cultivation. But he shares the classical Confucian view that it is gentlemen and sages more than any others in society who can best grasp the Way and who have the capacity, and hence the responsibility, to put it into practice.

I therefore agree that in classical Confucianism moral autonomy has significance mainly for the moral and political leaders. But my aim is to reconstruct Confucianism for a contemporary purpose, and I think that there is a good case for a contemporary version to downplay, if not abandon, the moral elitism in the classical period. For reasons of space I will briefly point out only two reasons for this position. The first reason is that a contemporary Confucian perspective retains the classical view that human beings are born equal in their capacity to become moral and that

ideally people should receive an education that equips them with learning and self-cultivation skills. This egalitarian principle clearly supports equal opportunity of education and offices in society. Second, as Wm. Theodore de Bary observes, classical thinkers link moral education to the task of training political leaders for society, and thus the kind of learning for the gentleman becomes very demanding and difficult for ordinary people to attain.<sup>47</sup> De Bary writes, "In [Confucius'] day it is a simple fact that most people did not have the means or the leisure to pursue learning, and especially learning of a kind indispensable to the gentleman as a social and political leader."<sup>48</sup>

The kind of Confucian learning necessary for political governance is indeed demanding. It includes detailed and persistent study of the laws, institutions, and rites in the present and the past, and of the writings and deeds of previous sage-kings and scholars. In modern terminology, this is nothing less than the art and science of government. Today, the Confucian conception of moral life, and the reflective abilities required by it, should not be closely linked to this highly specialized, demanding task of political governance attributed to the gentleman. Moral life and moral autonomy should be meant for everyone, and should be lived out in the contexts of the family, workplace, and community. With increased opportunity of education and social mobility, and with the disconnection of moral education and the special task of political governance, the gap between the moral elite and the common people should be considerably narrowed in a modern reconstructed version of Confucian ethics. The discussion in the next section concerning the moral and political implications of Confucian moral autonomy assumes this more egalitarian perspective.

### *Moral and Political Implications of the Confucian Conception of Moral Autonomy*

Does the Confucian conception of moral autonomy have any significant implications regarding issues of civil liberty? I shall argue that although it does provide some good reasons for restraining the use of coercion and hence for protecting individual freedom in the sense of not interfering in individual lives, the force of these reasons is quite limited. Confucian moral autonomy alone does not provide a secure justification for civil liberties.

### *Limited Toleration of Unethical Deeds and Expressions*

There are several features in Confucianism that tend to generate an intolerant attitude toward behavior and toward expressions it regards as wrong or immoral. First, Confucians put much emphasis on shared moral vocabularies, beliefs, and principles, and regard them as essential to the stability and flourishing of society. Second, for Confucianism, moral agents should take morality as the supreme imperative in their lives—the other goods (physical, material, or social) should give way to morality if they are in conflict with it. Third, Confucianism is a perfectionist political theory, which holds that one of the most important tasks of the state is to promote morality and virtue. These three features combined push Confucianism strongly down the path of intolerance. But, paradoxically, it is also well known that Con-

fucians do not favor coercive or oppressive measures to foster virtue. I want to suggest that the two elements of moral autonomy that are identified in Confucian ethics, namely voluntary endorsement and reflective engagement, help prevent Confucianism from sliding easily into oppressive intolerance.

Confucius reckons that legal punishment cannot change one's heart or soul; only rites can:

Guide them by edicts, keep them in line with punishments, and the common people will stay out of trouble but will have no sense of shame. Guide them by virtue, keep them in line with the rites, and they will, besides having a sense of shame, reform themselves.<sup>49</sup>

Why this is so can be seen in light of the voluntary endorsement of morality. One cannot be compelled to become a morally autonomous agent and a virtuous person. To live a virtuous life, agents must see the point of that life—they must willingly endorse virtue, be motivated to live by it—and enjoy that life. “One who is not benevolent cannot remain long in strained circumstances, nor can he remain long in easy circumstances. *The benevolent man is attracted to benevolence because he feels at home in it.*”<sup>50</sup> The cultivation of virtue occurs through education and practice in rites—it is rites, not physical force, that make people feel at home with virtue. The use of force, on the contrary, runs the risk of making people lose a sense of shame. People bow to force, not the authority of morality.

Xunzi, I believe, also understands the limit of coercion in fostering virtues, although he does not explicitly say this. In Xunzi's view, sages and the common people share a common human nature, and they share the same faculties that enable them to grasp and learn the Way and transform their lives by persistent learning and practice. But how does Xunzi explain the phenomenon, which he accepts as true, that only a small number of people are sages and gentlemen? His answer is that the common people are not “willing” to become sages, and therefore “they cannot be made to do so.”<sup>51</sup> Xunzi recognizes that there is no direct way to *make* people lead a moral life if they are not willing to do so. The law is not a good instrument of moral edification. Anyone recognizing this point would want to limit the scope of criminal law.

We find this line of thought in other schools that also take morality to be objective and yet uphold the virtue of tolerance. John Locke's *letter of toleration* is a classic example. While coercion can change a person's outward behavior, it has little ability to make the individual's inner soul right. This justification, however, is limited in two important ways. First, it may not rule out *indirect* coercion. Although force might not directly change people's hearts, it can change the external, social circumstances in which people's attitudes and habits are formed and nurtured. If a book, say, Dostoevsky's *The Brothers Karamazov*, challenges Christianity so powerfully that any Christian might suffer a loss of faith,<sup>52</sup> then there is nothing in the idea of voluntary endorsement that can say that banning the book is wrong.<sup>53</sup> Banning a book is not like coercing individuals to change their minds. It just prevents them from being exposed to heresies and corrupting influences. It does not violate the idea of voluntary endorsement. Second, the idea does not even rule out direct coercion if it is intended to prevent wrong expressions or acts from spreading their corrupting

influence. If the aim of coercion is to help the *coerced* to change their lives, then the argument thus far correctly implies that this would be ineffective, for outward force seldom changes the hearts of individuals. However, if the coercion is not intended to help the coerced but rather to prevent them from corrupting *other people*, then, again, there is nothing in the idea of voluntary endorsement that can say that this act is wrong or ineffective.

This is as much a problem for Confucians as for Locke. It is hard to deny that there is a strong tendency in Confucianism to adopt an intolerant attitude toward thoughts and expressions that it takes to be unethical or wrong. Confucianism tends to treat ethical perspectives that are at odds with the core substance of the Confucian ideal as “heresies.” Furthermore, Confucianism would be worried about the harmful effects of heresies on social harmony and stability, which are important values in the Confucian scheme. In addition, as a theory of political perfectionism, Confucianism would expect political rulers to help maintain or restore the Way in the face of heretical challenges.<sup>54</sup> One telling example of this tendency is Mencius’ attitude toward two schools of thought in his day.<sup>55</sup> He regards the egocentric philosophy of Yang Chu as a “denial of one’s prince” and the philosophy of Mo Ti, which preaches universal love, as “a denial of one’s father.” “If the way of Yang and Mo does not subside and the Way of Confucius is not proclaimed, the people will be deceived by heresies and the path of morality will be blocked.”<sup>56</sup> Although Mencius uses very strong words to condemn the Yang and Mo schools of thought, he does not advocate the use of political force to ban them. Instead he says that whoever can combat them “with words” is a true disciple of the sages:

I wish to follow in the footsteps of the three sages in rectifying the hearts of men, laying heresies to rest, opposing extreme action, and banishing excessive views. I am not fond of disputation. I have no alternative. Whoever can, *with words*, combat Yang and Mo is a true disciple of the sages.<sup>57</sup>

Mencius does not explain why he asks people to combat heresies with *words* rather than *swords*. On this we can only speculate. Perhaps the reason is that Mencius has no swords—if the gentleman were in power, he would have banned the heresies! This exactly is the attitude of Xunzi:

But now the sages and true kings have passed away and the world is in confusion. Evil doctrines arise, and the gentleman has no power to control the people with and no punishments to prohibit them from evil. Therefore, he must have recourse to persuasive speaking.<sup>58</sup>

So, for Xunzi, and possibly Mencius as well, the best way to contain and combat heresies is by control and punishment. The method of argument and explanation is merely the second-best solution.

But is there anything in Confucian ethics that can resist such a strong tendency to restrict and punish wrong or unethical expressions? To see where such resistance might come from, consider J. S. Mill’s view of freedom of expression. Mill is concerned with the pursuit of truth, and he realizes there are always falsehoods and half-truths circulating in society. The best way to combat false doctrines and opinions,



according to Mill, however, is by better argument, not suppression. He gives several reasons for this, but we need consider only the one that directly relates to the issue here. An oppressive environment which permits no falsehood or challenges to the truth, Mill argues, will not be conducive to an enlightened, genuine understanding of the truth itself. It will also stultify people's minds.

Does the Confucian conception of moral autonomy contain anything that may lead to this Millian position? I believe that reflective engagement does enable Confucians to walk along with Mill for a while, but eventually they will part company. In Confucianism, a successful moral life requires the moral agent to be capable of reflective understanding, which in turn requires a kind of moral learning that emphasizes thinking, reflection, extension and imagination, and dynamic deliberation. These qualities of the mind are difficult to develop in an environment where no one is allowed to challenge the received wisdom, and where no falsity has a chance to be heard and rejected by better arguments. Instead, thinking, reflection, and so on prosper in an environment that encourages a certain degree of open-mindedness, not blind dogmatism. Banning opposite views or false beliefs does not help people to see the truth more clearly, but merely encourages unreflective acceptance of received views and makes people less capable of reflective understanding. It is only through thorough exposition and criticism of false doctrines that doubts and mistaken thinking can be completely dispelled. Only by this means can people gain a more genuine and firm understanding of the ethical truth.<sup>59</sup>

It may be instructive to relate this argument to Confucius' remarks on honest village people, although Confucius does not do so. He despises this kind of people because they are deceptive—they appear to behave uprightly and benevolently, but in reality they care only about what people think of them. Now a rigorous and dogmatic moral environment, which presses people to conform to an orthodox morality that cannot openly be challenged, will tend to develop honest village people. Mao's China may produce selfless altruistic communists, and a highly dogmatic, disciplined Christian church may produce dedicated Christians, but for the most part they will produce, respectively, "good-behaving" communists or Christians who fall into the category of honest village people.

It is even more instructive to relate this argument to the character types that Confucius praises.<sup>60</sup> The ideal character for Confucius is the person who can exercise the best discriminative judgment and follow the middle way, the golden mean (*zhongyong*). Falling short of this, the second best character types are "the wild (*kuang*) and the squeamish (*juan*)," who follow their own moral principles and causes conscientiously, even though their principles and causes do not strike properly at the golden mean—they go either too far or not far enough. Compared to honest village people, the wild and the squeamish still have moral characters built upon their own moral understanding. They have moral integrity, despite the fact that they err. Confucius would recommend these people as friends or associates. The only people with whom he does not want to become acquainted are honest village people, for they are pretentious and have no real moral character or integrity. A highly oppressive moral environment that permits nothing but orthodoxy and does

not allow people to err in their beliefs and ways of life is one that hinders the development of real moral characters like the wild and the squeamish. Of course, as Confucius says, we would prefer to make friends with the best people—the gentlemen who follow “the middle way.” But even Confucius concedes that “he can not be sure of finding such men,” and so he has to think of the second best, the wild and the squeamish. In an oppressively orthodox moral community, Confucius would find few people to befriend.

Thus far I have tried to bring out the positive implications of Confucian reflective engagement regarding civil liberties. We can see why an oppressive moral community is not desirable even if the sole concern in the community is the promotion of moral life. But the force of this argument should not be overstated. The argument is much less forceful for rejecting *milder forms of suppression*, such as the mild legal restriction of expression and an ideologically selective schooling system. There are two reasons for this. First, although the systematic wiping out of heresies and the punishing of people with unorthodox views may stultify people’s minds, the *piecemeal* banning of extreme and potentially influential views may not. The truth is that both the harmful effects of heresies and people’s reflective capacities are a matter of degree. Suppose a powerful heresy is subverting the basic structure of Confucian society. The legal restriction of this heresy alone need not constitute a serious impediment to the development of people’s mental and ethical capacities. In this case the argument of reflective engagement cannot resist legal restriction.<sup>61</sup>

The second reason has to do with how the early Confucians understood the special role and nature of reflective engagement in moral life. Confucius and Xunzi believe that the Way—or *basic* moral principles and values—was correctly grasped in the past by the sages, and Mencius thought that it was also discernible by immediate introspection and reflection. The primary job of reflection is not to find the Way by critically assessing all competing thoughts, but rather to help us arrive at a deeper and more genuine understanding of what is already known. This job requires the abilities to attend to and reflect upon the truth, to understand the canon, and to imaginatively and appropriately extend and apply one’s understanding to other life situations. Although it may not be possible to develop these abilities in an oppressive moral environment, neither do they necessarily require the soil of a free, open society in which all ideas can compete on an equal footing. Confucian moral reflection is not identical with free, critical, dialectical thinking.<sup>62</sup> The former, but not the latter, can survive in a circumscribed and ideologically selective school curriculum or moral environment. Perhaps Confucian moral reflection even *requires* the protection of such an environment. An open society that in principle permits the existence of a large number of bad ways of life and the circulation of bad ideas may not be conducive to Confucian moral reflection.

If the arguments thus far are right, we have reached the following conclusion: Confucian moral autonomy fits neither with an *oppressive* moral community nor with a *liberal-open* society, but with what may be called a morally *conservative* environment in which liberties and their restriction are balanced in such a way as best to promote the moral good.

### *Moral Autonomy versus Personal Autonomy*

Up to this point I have tried to give what I think is the strongest case for the importance of the Confucian conception of moral autonomy in matters concerning civil liberties. I now want to argue that moral autonomy has nothing more to offer in supporting civil and personal liberties. To see the limitation of moral autonomy, let us first examine what a contemporary liberal in a Western individualistic tradition would say regarding the question of unethical deeds or expressions. One typical liberal position would be that the state has no business interfering with individual freedom unless its expression causes harm to others. The justification for this position often draws on some notion of respect for the dignity of the person, the ideal of individuality, or personal independence. To interfere with an individual's private life and personal activities is not to give enough respect to that person's dignity or unique individuality. One may deny that these are genuine values. But if they are, they can offer a more positive and direct, if not conclusive, justification for freedom of action and expression.

Moral autonomy affirms an ideal very different from the liberal one. It has a notion of individual dignity, as well as a notion of the independent will of a morally autonomous person. But the idea of moral autonomy stresses *moral personhood*, which is the same for all human beings, and not individual uniqueness, which differs from individual to individual. Even the Kantian conception of moral autonomy does not take individuality or individual uniqueness as a central idea. For Kant, the moral autonomy of individuals rests on their rationality, but one individual's rationality is no different from any other's. It is human rationality that compels each individual to will a moral maxim that all others would rationally will. As Munro writes, "Kantian autonomy assumes the existence of universal reason, which may imply sameness of judgment in all humans. Locked into the a priori dictates of such a faculty, the person could be seen as stripped of crucial elements of individuality, thereby losing a portion of his dignity in the process."<sup>63</sup> These two conceptions of dignity are different. The Kantian conception concerns the dignity of a *moral* person, whereas the liberal conception concerns the dignity of *unique individual persons*. We should not fault Kantian or Confucian conceptions for not addressing the liberal understanding of dignity or individuality, because their concern is with the moral life of a person. But neither should we think that their conceptions of moral autonomy can give rise to such liberal values as individuality. From the liberal-individualist perspective, what we respect is not merely the common features that define a human being, but more importantly the uniqueness of each human individual: a distinct personal identity and path of life history; a unique blend of dispositions, tastes, and talents; a personal ambition in life and perspective on the world. Respect for the dignity of a person includes respect for those features that form the core of individuality.<sup>64</sup>

The idea that lies behind this endorsement of individuality is generally called *personal* autonomy, as opposed to the Confucian or Kantian notion of *moral* autonomy. Personal autonomy is the idea that people should be the authors of their own lives. As Stephen Wall puts it, personal autonomy "is the ideal of people charting their own course through life, fashioning their character by self-consciously choos-

ing projects and taking up commitments from a wide range of eligible alternatives, and making something out of their lives according to their own understanding of what is valuable and worth doing. . . . In short, autonomous people have a strong sense of their own identity and actively participate in the determination of their own lives.”<sup>65</sup>

There are at least two ways to contrast moral and personal autonomy. The first is to see the different ways in which they are valued. In Confucianism, the most important aim of a gentleman is to live a moral life of *ren* and righteousness. Moral autonomy is valued because it is a *precondition* of living a moral life in a genuine and successful way. One cannot lead a genuine moral life with virtues unless one willingly endorses the moral life. Also, it is difficult to live a moral life successfully if one does not have the reflective capacities necessary to achieve moral autonomy. So the value of moral autonomy is derived from the value of the moral life. Personal autonomy, for many liberals, is an intrinsically valuable ideal on its own, although it can be instrumentally valuable as well. Its value cannot be reduced to the value of the goals that an individual autonomously pursues. Rather it partially defines a good life and gives value to it. For many liberals, the good life of a person is a life that consists of valuable projects and activities that are autonomously chosen or endorsed by that person.

Second, the conditions of personal autonomy are broader than those of moral autonomy. Personal autonomy requires at least three sets of conditions: (1) The autonomous agent has the appropriate rational and emotional capacities to make choices. (2) Personal autonomy requires the availability of options that the agent regards as valuable. In the context of modern industrial societies, they normally include the major options of career, marriage, education, association, and religion—options that are normally protected in international human-rights charters. (3) Personal autonomy requires the absence of inappropriate interference, such as coercion and manipulation, from others.<sup>66</sup> By contrast, moral autonomy requires only the first and third conditions, not the second one. The ideal of moral autonomy is that moral agents can make moral decisions that they reflectively endorse, and be able to act on this basis. Conceptually, it is possible to be morally autonomous without having valuable options concerning career, marriage, and so forth.<sup>67</sup> Moral autonomy is compatible with a narrow range of life choices.

Consider as an extreme example the case of moral martyrs in traditional China. Suppose a Confucian gentleman who serves in a morally corrupt government faces a dilemma. He must either help perpetuate the immoral practices of his wicked emperor or sacrifice his life in remonstrating and protesting against the emperor because the emperor regards his resigning from office as a form of protest. Clearly the gentleman would regard the second option as the only morally acceptable choice, although not a desirable one as such. Nonetheless, in choosing to protest and die, the gentleman can preserve his moral autonomy and integrity. Consider the less extreme example of filial children. In traditional China, arranged marriage was the norm, and filial piety required children to accept the choices of their parents. Some may not have liked arranged marriage as such, but they endorsed it as part of a

Confucian morality that they regarded as correct. Those filial children who complied with the norm would have their moral autonomy intact, but their personal autonomy would have been restricted because they could not make this important choice.

So, moral and personal autonomy differ in the ways they are valued and in the range of options they require as their conditions. With this in mind, we may now proceed to see how the Confucian and liberal perspectives come to justify freedom differently.

### *Two Theories of Freedom*

I would like to propose the following differences between Confucian and liberal theories of individual freedom. In the liberal view, the promotion of freedom and the toleration of morally dubious behavior come from the same source: personal autonomy.<sup>68</sup> Personal autonomy supports the claim that people should enjoy many civil and personal liberties, for they express and realize personal autonomy. This same idea would also reject coercive interference even for the good of the would-be coerced, for coercion infringes on personal autonomy. So, the liberal justification of freedom is what I call *content-independent*—the freedom to do X does not depend on the *content* of X (whether X is good),<sup>69</sup> but on whether X is the *autonomous choice* of the agent. A Confucian theory, on the contrary, gives a *content-dependent* justification for freedom. Lacking the idea of personal autonomy, Confucians would justify freedom only on the ground that it allows people to pursue the good. That we should be free to do X is because X is good, and not because freedom expresses or realizes personal autonomy. The Confucian justification for the freedom to do X is always content-dependent; that is, it depends on whether X is valuable.

The content-independent nature of the liberal justification of freedom explains why its justification for toleration is also content-independent. Since the liberal is not concerned with the content of X (within the limit of not causing harm to others), the fact that X is from a value standpoint dubious or worthless does not prevent liberals from endorsing one's freedom to do X. The value of X does not affect the value of the freedom to do X, for the latter is secured by personal autonomy. But this strategy is not open to Confucians in their justification for toleration. If X is morally wrong or valueless, then this fails to give rise to a content-dependent reason for endorsing the freedom to do X. The freedom to do X when X is *not* good would not have the same kind of value as the freedom to do X when X is good. If we should not interfere with people's freedom to do X, it is mainly because coercion will not help people achieve the good. Coercion frustrates moral autonomy, which is a precondition of the genuine pursuit of the moral good. In this case, the freedom to do X is merely tolerated, not positively valued.

### *Incorporating Personal Autonomy into Confucian Ethics and Political Theory*

I do not mean to conclude prematurely that the liberal view of personal autonomy and its theory of the value and function of civil liberties is necessarily superior to the Confucian perspective on freedom. Perhaps, as some have argued, an instrumental

theory of freedom is all that we need to provide the appropriate kind of justification for civil liberties.<sup>70</sup> However, personal autonomy is an important independent value today.<sup>71</sup> I believe a contemporary version of Confucian ethics and political theory should incorporate personal autonomy, for it makes Confucianism more attractive and adaptable to the conditions of modern society. In this last section, I will explain briefly the conception of personal autonomy that a contemporary version of Confucian political theory could adopt, lay out the structure of this reconstructed theory of civil liberties, and tackle one potential obstacle in Confucian ethics for incorporating personal autonomy.

I want to specify the kind of personal autonomy that Confucianism could accept. Personal autonomy is a fashionable notion today, with different articulations circulating in both philosophical and popular discourse. There is one particular articulation common in the culture of some Western societies such as the United States from which Confucianism should dissociate. This is the notion of personal sovereignty, which finds its best articulation in Joel Feinberg's philosophical writings.<sup>72</sup> Personal sovereignty means not only the ideal of a person leading an independent life. It is also a strong moral *right* to guard against any external action that intrudes on a person's private life. It is modeled after state sovereignty, and is a right so important that it outweighs any external interference from the outside. Feinberg relies on this notion to reject moralistic or paternalistic interference in a person's life, whether from the state or from other people in society. He places personal sovereignty above all other nonmoral values, such as the well-being of the agent or ethical ideals. In short, personal sovereignty is personal autonomy made nearly absolute. I believe that personal sovereignty is a dubious notion, although I will argue this point here. My present concern is that absorbing this idea into Confucianism would fundamentally change its nature as a form of political theory. Confucian political theory is perfectionist in the sense that a major aim of the state is to help people pursue a moral life by means of law, education, the provision of resources, and the coordination of social groups and their activities. Given its ethical concerns and its conception of the aims of politics, Confucianism would not categorically reject moralistic or paternalistic state interference in people's lives.<sup>73</sup> This major feature of Confucian political theory would have to be abandoned if personal sovereignty were implanted in Confucianism.

The personal autonomy described above is not a moral right, but a valuable aspect of a good life. With other propositions, it may give rise to certain moral rights. But in itself it does not entail the strong notion of personal sovereignty. Personal autonomy admits of degree—one can be more or less autonomous, and its value need not be absolute. A contemporary version of Confucian political theory could welcome a moderate version of personal autonomy, treating it as one value that competes with, and at times can be outweighed by, such other values as well-being and ethical ideals. This moderate version makes Confucianism sensitive to people's autonomy but without categorically placing it over and above other values, thus preserving Confucian perfectionism.

The new theory that emerges from this combination gives a strong justification for civil liberties. Liberties are now justified not only by content-dependent

considerations—the nature of the particular action in question—but also by a positive respect for the personal autonomy of the agent who chooses to perform a particular action. This new theory captures the idea that sometimes it is more important for agents to direct their own lives and make their own choices, even if some of the choices may not be right. However, the theory differs from some liberal theories of liberties, for it in principle allows moralistic and paternalistic considerations in defining the exact scope of liberties. Personal autonomy is a good, but not an absolute one. When an agent's choice goes seriously wrong, morally or prudentially, and has dire consequences, this Confucian perspective would take these considerations into account. It would balance bad outcomes against the good of personal autonomy and the potential drawbacks of coercive interference. This balancing might or might not favor legal intervention. All would depend on the specific case in question. Xunzi's advice for a gentleman concerning moral reflection and choice may serve as a principle of legislation:

When a man sees something desirable, he must reflect on the fact that with time it could come to involve what is detestable. When he sees something that is beneficial, he should reflect that sooner or later it, too, could come to involve harm. Only after weighing the total of the one against that of the other and maturely calculating should he determine the relative merits of choosing or refusing his desires and aversions.<sup>74</sup>

The structure of this new Confucian theory is less tidy than the perspective of classical Confucianism and contemporary mainstream liberalism, but it seems more defensible.

Suppose we have shown that there is good normative reason for a Confucian theory of civil liberties to incorporate personal autonomy. We now need to consider whether this absorption of a value foreign to Confucian ethics would deeply upset the ethics. Traditional Confucianism endorses a hierarchical system of familial and social relationships, giving a great deal of authority and power to parents, especially the father, in managing the lives of adult children. This system is supported by an elaborate ethics of filial piety. May Fourth thinkers argued that it was this feature of Confucianism that was responsible for the suppression of personal freedom and individuality. Would the inclusion of personal autonomy therefore undermine filial piety and the entire hierarchical system of relationships? I think it would, if filial piety is understood in its traditional form. But I believe there is a strong internal reason to reform and revise the traditional understanding of filial piety, given the conditions of modern society. I will argue that the inclusion of personal autonomy need not be seen as forsaking Confucian ethics, but rather as an *internal revision* in response to new social circumstances.

From a *practical* standpoint, personal autonomy is an unavoidable way of life in modern society. One can hardly live a successful life without having the rational and emotional capacities to make choices in many of life's situations. Modern industrial and postindustrial societies are characterized by social and geographic mobility, a multiplicity of occupations, and the rapid advancement of technology, all of which make communication within and across cultures almost effortless. Occupations, arts

and cultures, and ways of life that are attractive and accessible to many individuals now render choice-making a central life activity. Parents may not have a firsthand understanding of the situations that their children face. Their experience may no longer be suitable to the task of deliberating about and choosing a child's education, occupation, marriage partner, place of residence, and so forth.

This is a problem that classical Confucianism did not face. Confucianism emerged and developed in a traditional society that changed so slowly that it did not provide the right type of soil to cultivate personal autonomy. Quite the contrary, personal autonomy would have upset the social and economic system of the traditional Chinese clan-based society. The authoritative father was essential to the stability of the family, the most important unit of economic production and the basic node in society's network. Granting personal autonomy to adult children would have disrupted this order and threatened the survival of the family. Jeffrey Blustein's description of the difference between premodern and contemporary Europe regarding the issue of parenthood and children also illuminates the case of Confucianism:

By comparison with the average parent today, parents in pre-industrial Europe did not worry much about the moral values implicit in raising children. There was little mobility out of the family; one's life prospects were largely limited by one's family, and one's station in life was likely to be the same as one's father's. The family was a unit of economic production, and the rights and responsibilities of parents were defined in terms of whatever was necessary to maintain its productivity. But with the rise of industrialization, the orderly and predictable transmission of occupation and status from parent to child could no longer be assumed, and the education and training appropriate for children had to equip them for success outside the narrow confines of the family. These broad social and economic changes paved the way for some serious rethinking of parenthood.<sup>75</sup>

Unlike parents in premodern societies, the parents of today face tasks that are formidable. The social and economic structure of society makes it impossible for them to dictate their children's choice of careers, marriage, education, and so forth. As a result, parents can only help their children by assisting them to make their own choices. Parents hoping to help children live successful lives will need to equip them with the rational and emotional capacities of personal autonomy. Of course Confucianism wants parents to instill right values and morals in children, too, and personal autonomy is just one value among others. Nowadays, however, dictating children's lives even when they have grown up is not only an unworkable option but also a bad one, for it is detrimental to the long-term well-being of the children.<sup>76</sup> Today a father with the Confucian virtue of "fatherly love" (*ci*) should therefore not practice parental authoritarianism, which is incompatible with fatherly love in the context of modern society.

This line of thinking can help explain why the inclusion of personal autonomy is more an internal revision than a total abandonment of Confucian familial ethics. In classical Confucianism filial piety was generally understood to consist of three major moral requirements: respect for one's parents, honoring (or not disgracing) them, and supporting them financially.<sup>77</sup> In traditional China, one main expression of "respect" for parents was to obey parental wishes. This is perhaps the single feature in filial



piety that is incompatible with personal autonomy—the other two features are still valuable to many people today and consistent with autonomy. But I have been suggesting that the significance of obedience as an element of “respect” was based on the social and economic structure of traditional Chinese society. Once the social conditions changed, this element lost its social importance and attractiveness. Also, practicing this norm of obedience is not conducive to the long-term well-being of children in modern society. Modern Confucians need a new norm to express the more fundamental moral requirement of “respect for one’s parents.” For example, *seeking advice* from parents when one makes important choices could be seen as respecting one’s parents. And there are other attitudes of respect that can and should remain, such as an attitude of reverence.<sup>78</sup> A contemporary version of filial piety could therefore retain the three traditional requirements: respecting, honoring, and supporting one’s parents, although the concrete expression of the first requirement would change.

Another way to argue the case is this: for the sake of his children’s well-being, a Confucian father today ought not to wish to practice parental authoritarianism. An interesting implication then follows: if the obedience of adult children is not what Confucian parents themselves wish for, there is no case for children not complying with the wishes of parents. In other words, since the parent’s wish to command obedience from children does not arise in the first place, the potential conflict between personal autonomy and filial piety dissolves.

In conclusion, it may be helpful to summarize briefly the main claims that I have defended here. First, there is a conception of moral autonomy in Confucian ethics that can support a degree of toleration and freedom as the absence of coercion. Second, moral autonomy (Confucian or Kantian) is, however, different from personal autonomy. The two address different concerns, and personal autonomy gives a stronger justification for civil and personal liberties than does moral autonomy. Civil liberties are important because they are instrumentally useful for the promotion of the good, both moral and nonmoral, and are expressive of the ideal of personal autonomy. Third, personal autonomy should carefully be distinguished from the idea of personal sovereignty. Personal autonomy but not personal sovereignty should be absorbed into Confucian ethics. Finally, the inclusion of personal autonomy would strengthen the contemporary appeal of Confucianism. It need not be seen as forsaking Confucian ethics, but rather as an internal revision in response to new social circumstances. Emerging from this incorporation is a new theory of liberties that recognizes the value of personal autonomy and the importance of the ethical good that liberties instrumentally serve to promote. It is also a theory that attempts carefully to balance the two when they are in conflict.

## Notes

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- 1 – For powerful contemporary challenges along this line, see Randall Peerenboom, "Confucian Harmony and Freedom of Thought: The Right to Think versus Right Thinking," in Wm. Theodore de Bary and Tu Weiming, eds., *Confucianism and Human Rights* (New York: Columbia University Press, 1998), chap. 13, and Ci Jiwei, "The Right, the Good, and the Place of Rights in Confucianism" (unpublished paper, 1998). For an argument that Confucianism is compatible with the idea of human rights (although not necessarily with all the specific rights), see Joseph Chan, "A Confucian Perspective on Human Rights for Contemporary China," in Joanne R. Bauer and Daniel A. Bell, eds., *The East Asian Challenge for Human Rights* (Cambridge: Cambridge University Press, 1999), pp. 212–237.
- 2 – This line of argument can be found in works by Mou Tsung-san and T'ang Chun-i. See also Lin Yu-sheng, "The Evolution of the Pre-Confucian Meaning of *Jen* and the Confucian Concept of Moral Autonomy," *Monumenta Serica* (Journal of Oriental Studies) 31 (1974–1975): 172–183, and "Reflection on the 'Creative Transformation of Chinese Tradition,'" forthcoming in a conference volume, ed. Karl-Heinz Pohl (Leiden: E. J. Brill), which appeals to the Confucian concept of moral autonomy in arguing that Confucianism can accept human rights.
- 3 – A clear statement of this occurs in Aristotle's *Nichomachean Ethics* 1110a–1111b.
- 4 – This is especially true if morality is objective and hence admits of true or false understanding of it. But even if morality is not objectively valid, but is, as a Humean would say, a projection of human feelings, there might still be room for rational reflection and hence a possibility of error. For example, Simon Blackburn claims that one's reflection of one's feelings and desires, which are the basis of morality, can admit of rational scrutiny, and hence it is possible that a person may make improper—that is, irrational or subrational—moral judgments. See his *Spreading the Word* (Oxford: Oxford University Press, 1984), chap. 6.
- 5 – For some theories, objective morality not only does not undermine one's autonomy or freedom, it serves as a basis of it. Autonomy or freedom *in spite of* morality is license, as Locke famously puts it.

- 6 – For discussions of the contrast of these two views in moral philosophy, see Raymond Guess, “Morality and Identity,” in *The Sources of Normativity*, by Christine Korsgaard, with commentary by G. A. Cohen, Raymond Guess, Thomas Nagel, and Bernard Williams, ed. Onora O’Neill (Cambridge: Cambridge University Press, 1994), pp. 192–193, and especially Lewis Hinchman, “Autonomy, Individuality, and Self-Determination,” in James Schmidt, ed., *What Is Enlightenment? Eighteenth-Century Answers and Twentieth-Century Questions* (London: University of California Press, 1996), pp. 488–516.
- 7 – *Analects* IV.2, 6; XV.9. Unless otherwise stated, all translations of *The Analects* and *The Mencius* are taken from D. C. Lau’s translations.
- 8 – For an illuminating discussion on this point, see David B. Wong, “Is There a Distinction between Reason and Emotion in Mencius?” *Philosophy East and West* 41 (1991): 31–44.
- 9 – Xunzi’s view on the connection between human nature and moral motivation raises many interpretative and philosophical difficulties. See David B. Wong, “Xunzi on Moral Motivation,” in Philip J. Ivanhoe, ed., *Chinese Language, Thought, and Culture: Nivison and His Critics* (Chicago: Open Court, 1996), pp. 202–223.
- 10 – *Xunzi*, bk. II.
- 11 – *Analects* XVII.13.
- 12 – *Mencius* VII.B.37.
- 13 – I thank Lee H. Yearley for drawing my attention to the discussion of honest village people in the *Mencius*. See his illuminating analysis of Mencius’ view in his *Mencius and Aquinas: Theories of Virtue and Conceptions of Courage* (New York: State University of New York Press, 1990), pp. 67–72.
- 14 – Chad Hansen, “Punishment and Dignity in China,” in Donald Munro, ed., *Individualism and Holism: Studies in Confucian and Taoist Values* (Ann Arbor: Center for Chinese Studies, University of Michigan, 1985), pp. 361–363.
- 15 – *Analects* III.3.
- 16 – *Ibid.*, IX.3.
- 17 – *Ibid.*, XV.11.
- 18 – *Ibid.*, IX.30.
- 19 – *Ibid.*, IX.4.
- 20 – *Mencius* V.B.1.
- 21 – For a good discussion on this point, see A. S. Cua, *Moral Vision and Tradition: Essays in Chinese Ethics* (Washington, D.C.: Catholic University of America Press, 1998), p. 257.
- 22 – *Analects* IX.4, XVIII.8; *Mencius* V.B.1.

- 23 – *Xunzi* III.3.13, in John Knoblock, *Xunzi: A Translation and Study of the Complete Works*, vol. 1 (Stanford: Stanford University Press, 1988), p. 180. Except when otherwise stated, all translations of *Xunzi* are from Knoblock.
- 24 – The clearest statement on this point is in the *Zhongyong*, bk. XX.
- 25 – On Confucius' view on this point, see the succinct analysis of Wm. Theodore de Bary in *The Trouble with Confucianism* (Cambridge: Harvard University Press, 1991), pp. 35–37, 83.
- 26 – “If one learns from others but does not think, one will be bewildered. If, on the other hand, one thinks but does not learn from others, one will be in peril” (*Analects* II.15). “Learn widely and be steadfast in your purpose, inquire earnestly and reflect on what is at hand, and there is no need for you to look for benevolence elsewhere” (XIX.6). “When I have pointed out one corner of a square to anyone and he does not come back with the other three, I will not point it out to him a second time” (VII.8). “Do I possess knowledge? No, I do not. A rustic put a question to me and my mind was a complete blank. I kept hammering at the two sides of the question until I got everything out of it” (IX.8).
- 27 – “The gentleman, knowing well that learning that is incomplete and impure does not deserve to be fine, recites and enumerates his study so that he will be familiar with them, ponders over them, and searches into them that he will fully penetrate their meaning” (*Xunzi* I.1.14).
- 28 – *Xunzi*, bk. I; Burton Watson's translation in his *Hsün Tzu: Basic Writings* (New York: Columbia University Press, 1963), p. 20.
- 29 – For discussions on Mencius' views on moral thinking and development, see Yearley, *Mencius and Aquinas*, pp. 62–66; Kwong-loi Shun, *Mencius and Early Chinese Thought* (Stanford: Stanford University Press, 1997), pp. 149–153; Wong, “Is there a Distinction between Reason and Emotion in Mencius?” and Philip J. Ivanhoe, “Thinking and Learning in Early Confucianism,” *Journal of Chinese Philosophy* 17 (1990): 473–493.
- 30 – *Mencius* VI.A.15, 6, 13.
- 31 – *Ibid.*, I.A.7.
- 32 – *Ibid.*, I.A.7, IV.A.17, VII.A.26.
- 33 – *Analects* IX.26.
- 34 – *Mencius* III.B.2.
- 35 – *Xunzi* I.1.14 (p. 142).
- 36 – For an illuminating analysis of this, see Zhou Jizhi, *Lun Zhongguo gudai shehui yu chuantong zhaxue* (Beijing: Renmin Chubanshe, 1984), pp. 260–279.
- 37 – See de Bary, *The Trouble with Confucianism*, chap. 1.

- 38 – See *Xunzi*, bk. XXIX, and *Book of Filial Piety*, chap. 15.
- 39 – *Mencius* VII.A.6.
- 40 – *Ibid.*, VII.A.33.
- 41 – See Korsgaard, *Sources of Normativity*, p. 36.
- 42 – Meir Dan-Cohen, “Conceptions of Choice and Conceptions of Autonomy,” *Ethics* 102 (1992): 226.
- 43 – *Analects* XV.7.
- 44 – See his Introduction, in Munro, *Individualism and Holism*, pp. 12–13; italics added.
- 45 – This claim has been argued for by many scholars. See, for example, Herbert Fingarette, *Confucius: The Secular as Sacred* (New York: Harper and Row, 1972), and Peerenboom, “Confucian Harmony and Freedom of Thought,” p. 245. However, they did not consider the possibility of taking “willing” as an alternative conception of moral choice.
- 46 – *Xunzi* XXII.22.3; *Analects* VIII.9.
- 47 – De Bary, *The Trouble with Confucianism*, pp. 37–39.
- 48 – *Ibid.*, p. 38.
- 49 – *Analects* II.3.
- 50 – *Ibid.*, IV.2; italics added.
- 51 – *Xunzi*, bk. XXIII: “You have said, someone may object, that the sage has arrived where he has through the accumulation of good acts. Why is it, then, that everyone is not able to accumulate good acts in the same way? I would reply: everyone is capable of doing so, but not everyone can be made to do so. The petty man is capable of becoming a gentleman, yet he is not willing to do so” (Watson, *Hsün Tzu: Basic Writings*, p. 167).
- 52 – To get a sense of the power of the challenge, try the chapter “The Rebellion.”
- 53 – This argument is indebted to Jeremy Waldron, “Locke: Toleration and the Rationality of Persecution,” in his *Liberal Rights* (Cambridge: Cambridge University Press, 1988).
- 54 – Note that there are different forms of political perfectionism, Confucianism being just one. For a defense of a modern, moderate form, see Joseph Chan, “Legitimacy, Unanimity, and Perfectionism,” *Philosophy and Public Affairs* 29 (2000): 5–42.
- 55 – *Xunzi* is even more hostile to what he regards as “heresies.” See, for instance, *Xunzi*, bks. V, XIV, XXII.
- 56 – *Mencius* III.B.9; see also II.A.2.
- 57 – *Ibid.*, III.B.9; italics added.

- 58 – Xunzi, bk. XXII (Watson, *Hsün Tzu: Basic Writings*, p. 146).
- 59 – Just as Mencius' criticism of Gaozi and Xunzi's criticism of Mencius have deepened and enriched the later generation's understanding of the issues concerning human nature and morality.
- 60 – *Mencius* VII.B.37.
- 61 – Note that this is not a utilitarian argument, but merely a consequentialist one that takes the moral environment of a community as an important condition of the development of moral life.
- 62 – I owe this point to Chan Sin-Yee.
- 63 – See his Introduction, in Munro, *Individualism and Holism*, p. 16.
- 64 – For an interesting comparison of Kantian and expressivist conceptions of respect for persons, see John E. Atwell, "Kant's Notion of Respect for Persons," *Tulane Studies in Philosophy* 31 (1982): 17–30.
- 65 – See Stephen Wall, *Liberalism, Perfectionism and Restraint* (Cambridge: Cambridge University Press, 1998), p. 128. See also Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), chap. 14.
- 66 – Here I follow Raz, *The Morality of Freedom*, chap. 14.
- 67 – For a similar understanding of the difference between personal and moral autonomy, see Raz, *The Morality of Freedom*, p. 370 n. 2, and Donald Regan, "Authority and Value: Reflections on Raz," *Southern California Law Review* 62 (1989): 1075. Notice that personal and moral autonomy are both what I. Berlin would classify as ideals of positive freedom. The first and second conditions of personal autonomy go beyond the requirement of negative freedom.
- 68 – Of course, many liberal justifications of civil liberties also appeal to consequentialist considerations such as the promotion of truth, the prevention of corruption, and the improvement of public policy. These considerations are no less important than personal autonomy in a full justification, and they could be accepted and employed in a Confucian justification. I emphasize personal autonomy to stress the central difference between liberal and Confucian justifications.
- 69 – I should qualify this, for the content of X is still in one way relevant. If X is an act that would seriously harm others, then liberals might think there should be no freedom to do X. So when I say the liberal justification of the freedom to do X is content-independent, I am assuming that the pursuit of the X in question does not violate the liberal harm principle.
- 70 – See, for example, John Garvey, *What Are Freedoms for?* (Cambridge: Harvard University Press, 1996).
- 71 – For a detailed argument for the intrinsic and practical value of personal autonomy, see Wall, *Liberalism, Perfectionism and Restraint*, chap. 6.

- 72 – Joel Feinberg, *Harm to Self* (New York: Oxford University Press, 1986).
- 73 – Although a contemporary version of Confucianism would favor as much as possible noncoercive public means of promoting the good life (such as subsidizing valuable activities and pursuits and promoting them through school education and mass media).
- 74 – *Xunzi* III.3.13.
- 75 – Jeffrey Blustein, *Parents and Children: The Ethics of the Family* (New York: Oxford University Press, 1982), p. 3.
- 76 – This is a general statement. Under exceptional circumstances, it may be necessary and appropriate to strongly interfere with grown-up children's lives if they fail to develop the necessary capacities for autonomy or if they make autonomous but disastrous decisions.
- 77 – For a detailed analysis of the meaning of filial piety in Confucianism, see Chenyang Li, "Shifting Perspectives: Filial Morality Revisited," *Philosophy East and West* 47 (1997): 211–232.
- 78 – The Master said, "Nowadays for a man to be filial means no more than he is able to provide his parents with food. Even hounds and horses are, in some way, provided with food. If a man shows no reverence, where is the difference?" (*Analects* II.7). There is still a lot of truth in this famous passage today.